



PUBLIC NOTICE

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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DA 05-2183
Released: July 27, 2005

DOMESTIC SECTION 214 APPLICATIONS FILED FOR ACQUISITION OF ASSETS OF ACCERIS COMMUNICATIONS CORPORATION TO ACCERIS MANAGEMENT AND ACQUISITION LLC

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 05-227

Comments Due: August 10, 2005

Reply Comments Due: August 17, 2005

On July 1, 2005, Acceris Management and Acquisition LLC ("ACCERIS" or "Transferee") and Acceris Communications Corp. ("ACC" or "Transferor") (together "Applicants"), filed an application pursuant to sections 63.03 and 63.04 of the Commission's rules¹ requesting authority to enable ACCERIS to acquire the local exchange and interstate, interexchange customer base of ACC.

Applicants assert that this transaction is entitled to presumptive streamlined treatment pursuant to sections 63.03(b)(2)(i) of the Commission's rules because immediately following the transaction: (1) ACCERIS will hold less than a ten percent (10%) share of the interstate, interexchange market; (2) ACCERIS will provide local exchange service only in areas served by dominant local exchange carriers (none of which is a party to the proposed transaction) and; (3) none of the Applicants or their Affiliates is dominant with respect to any service.²

ACC is a corporation organized under the laws of the State of Delaware, and is a wholly owned subsidiary of Acceris Communications, Inc. ACC is authorized to provide domestic interstate and international telecommunications service. ACC is currently providing, intrastate, interexchange telecommunications services in the contiguous 48 states, Hawaii and the District of Columbia. ACC is also authorized to provide competitive local exchange services in 32 states and is currently providing such service in Florida, Massachusetts, New Jersey, New York, and Pennsylvania.

¹ 47 C.F.R. §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

² 47 C.F.R. § 63.03(b)(2)(i).

ACCERIS is a limited liability company organized under the laws of the State of Minnesota, and is wholly owned subsidiary of North Central Equity, LLC (the Buyer's Guarantor, hereinafter "NCE"). NCE is a privately owned holding company organized under the laws of Minnesota, with experience in the telecommunications industry. Mr. Elam Baer, a U.S. Citizen, is the CEO and 56.4 percent equity holder of NCE. No other entity or individual, either directly or indirectly, owns more than ten percent or more of equity in NCE. ACCERIS is not currently authorized to provide telecommunications services in any jurisdiction, but is in the process of obtaining authority to provide interexchange and/or local exchange telecommunications services throughout the United States. In states where ACCERIS has not yet secured the necessary licenses to provide service, it will service transferred customers pursuant to a pre-existing transitional Management Agreement with ACC.

The Applicants have entered into an Asset Purchase Agreement whereby ACCERIS will acquire ACC's entire local and long distance customer base. As a result of the proposed transaction, ACCERIS will become the local exchange and long distance provider of the transferred customer base and ACC will cease providing local exchange and long distance services. The proposed transfer is subject to certain state required certifications and/or approvals. Following the transfer, ACCERIS will provide local exchange and long distance service under the same rates, terms and conditions provided by ACC.

Applicants state that the proposed transaction will serve the public interest by ensuring no interruption of service or inconvenience to the affected customers, and the affected customers will receive the same local service and long distance rates based by the support services of ACCERIS, a growing and highly competitive carrier. Because ACCERIS will provide local exchange and long distance service to ACC's customers at the same rates, terms and conditions of service as they currently receive from ACC, the proposed transaction will be virtually transparent to ACC local and long distance customers in terms of the service they receive. Moreover, Applicants have provided written notice to the customers of the proposed transaction to ensure that those customers will understand how the proposed change in service providers will affect them. Service to these customers will not be transferred until the requisite regulatory approvals have been obtained. In addition, in accordance with the Commission's rules under section 64.1120(e), ACCERIS has filed with the Commission the required notice and certification.

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file **comments on or before August 10, 2005 and reply comments on or before August 17, 2005.**³

³

See 47 C.F.R. § 63.03(a).

Unless otherwise notified by the Commission, Applicants are permitted to transfer the assets and related control on the 31st day after the date of this notice.⁴ Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- **For ECFS filers,** if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432

⁴ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

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You may submit comments, identified by WC Docket 05-227, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

In addition, one copy of each pleading must be sent to each of the following:

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY-B402, Washington, DC 20554, www.bcpiweb.com; phone: (202) 488-5300 fax: (202) 488-5563;
- (2) Tracey Wilson-Parker, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C212, Washington, D.C. 20554; email: tracey.wilson-parker@fcc.gov;
- (3) Erin Boone, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C347, Washington, D.C. 20554; e-mail: erin.boone@fcc.gov;
- (4) Susan O'Connell, Policy Division, International Bureau, 445 12th Street, S.W., Room 7-B544, Washington, D.C. 20554; email: susan.o'connell@fcc.gov; and
- (5) James Bird, Office of General Counsel, 445 12th Street, S.W., Room 8-C824, Washington, D.C. 20554; e-mail: james.bird@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpiweb.com.

For further information, please contact Tracey Wilson-Parker, at (202) 418-1394, or Erin Boone at (202) 418-0064.

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